IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 7099 of 2006(T)

PETITIONERS:

1. **JYOTHY. S., D/O. P.K. SOMASEKHARA PANICKER, PAPPAMATTU HOUSE, KULATHOOR P.O., MALLAPPALLY, PATHANAMTHITTA.**
2. **SANDHYA. G., D/O. GOPINATHAN NAIR, SHIBUNILAYAM, THATTAYIL P.O., ADOOR (VIA), PATHANAMTHITTA DISTRICT.**
3. **RADHAMANI K.G., W/O. P. HARIKUMAR, KUZHIYUZATHIL HOUSE, KADAPARA P.O., KUMNANDAU, PATHANAMTHITTA DISTRICT.**
4. **SHAREEFA BEEVI K.M., KIZHAKKEDATHU HOUSE, NIRANAM NORTH P.O., THIRUVALLA, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM.**
2. **DISTRICT EDUCATIONAL OFFICER, PATHANAMTHITTA.**
3. **KULANADA GRAMA PANCHAYAT, REPRESENTED BY ITS SECRETARY, KULANADA.**

BY GOVERNMENT PLEADER SRI. T.T. MAHMOOD
SRI.K.SASIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23 /11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.7099 OF 2006

APPENDIX

EXT.P1: COPY OF G.O.(RT) NO.4431/05/G.EDN. DATED 8.9.2005.

EXT.P2: COPY OF THE ORDER DATED 3.8.2004 PASSED BY THE HONOURABLE SUPREME COURT IN CIVIL APPEAL NO.6753 OF 2003.

EXT.P3: COPY OF THE ORDER NO.C.43/99 DATED 5.6.2000.

EXT.P4: COPY OF THE JUDGMENT DATED 4.6.2003 PASSED BY THIS HONOURABLE COURT IN O.P.9607 OF 2000.

EXT.P5: COPY OF THE REPRESENTATION FILED BY THE PETITIONER DATED NIL.

EXT.P6: COPY OF THE REPRESENTATION DATED 11.11.2005 FILED BY THE FIRST PETITIONER.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No. 7099 OF 2006

Dated this the 23rd day of November, 2007

JUDGMENT

The petitioners are former High School Assistants in the High School managed by Kulanada Grama Panchayat. They had service as follows:

"1.	Smt. Jyothi.S.	17.07.1999 to 31.03.2000 05.06.2000 to 06.06.2003.
2.	Smt. Radhamony	29.10.1998 to 31.03.1999 07.06.1999 to 06.06.2003.
3.	Smt. Sandhya.G.	20.07.1999 to 31.03.2000 05.06.2000 to 06.06.2003.
4.	Smt. Shareefa Beevi	29.10.1998 to 31.3.1999 07.06.1999 to 06.06.2003."

2. Originally, they claimed appointment in future vacancies in recognition of their rights under Rule 51A of Chapter XIVA of K.E.R. In view of the subsequent Supreme Court decision on the subject, the same is not allowable now. The

petitioners now confine their reliefs for payment of vacation salary, which according to them, they are entitled to by virtue of Rule 49 of Chapter XIVA of K.E.R. The same has been denied to them by Ext.P1 Government order. The petitioners challenge Ext.P1 Government order and seek a direction to the respondents to grant them vacation salary for the vacations coming in between their date of appointment and date of termination of service.

3. The leraned Government pleader's contention is that these petitioners were originally appointed under Rule 9(a)(i) of KS & SSR, whose services were terminated on the last day of the academic year of the relevant year. Subsequently, they were appointed pursuant to judgments of this Court and therefore, they are not entitled to vacation salary.

4. I have considered the rival contentions in detail. In Ext.P1, the claim is rejected in the following words:

> "Regarding the 3rd request it is found that the 3rd petitioner Smt. Jyothi alone is eligible for vacation salary under Rule 49 of Chapter XIVA, KERs for the academic year 1999-2000 having 8 months service as on 31.3.1999. The same is allowed Smt. Jyothi.S. will be paid the vacation salary for 1999-2000. The District Education Officer, Pathanamthitta will take necessary further action in the matter.

5. From a reading of the above, it is clear that the Government also recognised the right of the petitioner to get vacation salary under Rule 49 of Chapter XIVA of KER. That being so, it defies logic as to why Smt.Jyothi alone should be paid vacation salary that too only for the year 1999-2000. In so far Smt. Jyothi and Smt. Sandhya are concerned, they had the qualifications for vacation salary for both the original period of service and the subsequent period of service. In respect of Smt. Radhamani K.G. and Smt. Shareefa Beevi K.M., although they are not entitled to vacation salary for the first spell of service, they are certainly entitled to vacation salary for all the vacations coming in between their date of appointment and date of termiantion of service in the 2nd spell. That being so, Ext.P1 to the extent it denies the petitioners vacation salary as above is clearly unsustainable.

6. Accordingly, Ext.P1, to the extent it denies the vacation salary to the petitioners, is quashed. All the petitioners are also entitled to festival allowance for the 2nd spell of their appointments, since evidently they had more than ten months' service during the 2nd spell which is admittedly the eligibility condition for entitlement of festival allowance. The

2nd respondent is directed to see that the petitioners are paid vacation salary for the period for which they are so entitled, as directed above, within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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